HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.32851 of 1998

Dated 23rd day of July, 2007

Between:

Boya Kurmanna
and ten others ..
Petitioners

And

The District Revenue Officer,
Mahabubnagar District
and two others ..
Respondents

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O R D E R:

This writ petition is filed to quash the Notice dated 21.10.1998 issued by the 1st respondent-District Revenue Officer.

The petitioners assert that they have been in possession and enjoyment of an extent of Ac.0.37 guntas of agricultural land each in S.No.687 situatekd in Kandoor village, Addakal Mandal, Mahabubnagar District from time immemorial and the 2nd respondent, after conducting enquiry, granted pattas to them on payment of market value. Later, they developed their lands by digging bore-wells and installing submersible pumps. While so, the 1st respondent issued a show cause notice dated 12.2.1998 asking them as to why the pattas granted in their favour should not be cancelled on the ground that the lands in question are assessed waste dry lands. Now, the grievance nurtured by the petitioners is that even after submission of their explanation to the show cause notice, the 1st respondent issued the impugned Notice dated 21.10.1998 canceling their pattas.

The respondents have filed counter affidavit *inter alia* denying the affidavit averments and contended that the lands in question are tank bed (Shikam) lands of Shanga Chervu and such lands should not be assigned nor cultivated, and if any piece of tank bed land was assigned, it should be cancelled.

Heard the learned counsel for both the parties.

Evidently, the lands in question are tank bed lands, and the assignment insofar as petitioners 1 to 5 are concerned, was made

sometime in the year 1974, but the cancellation of their assignment by the 1st respondent, after 24 years, more particularly when the assignees had improved the lands and converted them into agricultural lands, in my considered view, is arbitrary. So far as petitioners 6 to 11 are concerned, even according to the respondents, they collected market value from them. When once they collected the market value and allowed them to enjoy the lands which were converted into agricultural lands, and now cancelling their assignment on the sole ground that they are tank bed lands, in my considered view, is not permissible. Before granting assignment, the authorities should have looked into this aspect, but for the lapse on their part, the petitioners shall not suffer. Inasmuch as the instructions of the Government are to the effect that tank bed lands shall not be assigned, this Court directs the authorities to convert them into assessed waste dry lands and allow the petitioners to continue in possession of the lands.

In the result, the writ petition is allowed and the order dated 8.10.1998 and the consequential Notice dated 21.10.1998 issued by the 1st respondent are quashed. No costs.

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23.07.2007

bcj